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Washington Report

October 9, 1989 Volume XVIII, Issue 31

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SECURITIES AND EXCHANGE COMMISSION

Richard C. Breeden, who was nominated by President Bush to be a member and chairman of the SEC (see the 8/21/89 Wash. Rpt.), was confirmed by the Senate 10/4/89. Mr. Breeden succeeds David S. Ruder. Mr. Breeden joined the White House staff in January 1989 and served as Assistant to the President for Issues Analysis. Prior to his White House appointment, he was a partner of the law firm of Baker and Botts in Washington, D.C. Mr. Breeden has also served as Deputy Counsel to then-Vice President Bush and as Executive Assistant to the Under Secretary of Labor. His term will expire on 6/5/93.

Staff Accounting Bulletin (SAB) No. 86 has been issued by the SEC (see the 10/5/89 Fed. Reg., pp. 41084-85). SAB No. 86 expresses the SEC staff's views regarding the accounting for tax benefits of operating loss and tax credit carryforwards that existed as of the date of a quasi-reorganization when such tax benefits are subsequently recognized for financial reporting purposes. The SEC said that the staff has received inquiries about its position concerning this matter since it issued SAB No. 78 in August 1988 (see the 9/5/88 Wash. Rpt.). SAB No. 86 indicates that if a registrant complies with the requirements of Section 210 in effecting a quasi-reorganization and has adopted SFAS No. 96, any subsequently recognized tax benefits of operating loss or tax credit carryforward items that existed prior to the quasi-reorganization should be recorded as a direct addition to paid-in capital. SAB No. 86 also says a company that had previously recorded a quasi-reorganization that only resulted in the elimination of a deficit in retained earnings may not "undo" its quasi-reorganization. For further information after reading SAB No. 86, contact Kenneth V. Moreland at the SEC at 202/272-2130.

U.S. SUPREME COURT

A review of the Louisiana Court of Appeal for the Fourth Circuit's decision regarding a Louisiana law barring non-licensed accountants from issuing opinions on financial statements was unanimously denied by the U.S. Supreme Court on 10/2/89. The Appeal Court's decision in Louisiana Society of Independent Accountants v. Louisiana held that a Louisiana statute prohibits the expression of any opinion by non-CPAs concerning financial matters. In its first decision on the case, the Appeal Court held that it was the "overall intent" of the law to prohibit any opinion or certificate by a non-CPA. The Court of Appeal refused to address the plaintiffs' questions about the constitutionality of the law and remanded the case for consideration. On remand, the trial court held that the law is constitutional. The Appeal Court rejected a second appeal which argued that the statute unconstitutionally restricts the plaintiffs' First Amendment right to free speech on the ground the criminalization of the statement of "any opinion" by a non-CPA "is not so much speech as it is the manner in which the accountant expresses himself in the practice of his profession...."

TREASURY, DEPARTMENT OF

Modification of qualification procedures for sponsoring a regional prototype plan was announced by the IRS in Announcement 89-130. Earlier this year, in Revenue Procedure 89-13, the IRS said a firm could sponsor a regional prototype plan only

if, in the case of a partnership or corporation, a member or employee of the partnership or corporation is authorized to practice before the IRS with respect to employee plan matters or, in the case of an individual practitioner, the practitioner is so qualified (see the 2/6/89 Wash. Rpt.). Announcement 130 modifies Revenue Procedure 89-13 to provide that a firm may also be qualified to sponsor a regional prototype plan if a member or employee of such firm certifies that he or she has read and understands Revenue Procedure 89-13 and agrees, on behalf of the firm, to comply with its requirements. Announcement 89-130 is scheduled to appear in Internal Revenue Bulletin 1989-42, dated 10/16/89.

SPECIAL: SENATE FINANCE COMMITTEE APPROVES OUTRIGHT REPEAL OF SECTION 89 AND SECTION 2036(c)

The Senate Finance Committee approved on 10/4/89, as a part of its budget reconciliation measure, the outright repeal of section 89 non-discrimination rules for employee benefit plans and section 2036(c), relating to estate freezes. The full House of Representatives approved outright repeal of section 89 on 9/27/89 during consideration of its budget reconciliation bill, H.R. 3299 (see the 10/2/89 Wash. Rpt.). However, the House reconciliation measure does not contain a provision to repeal section 2036(c). The full Senate must still consider the budget reconciliation legislation and any differences between House and Senate versions must be resolved by the conferees from the House and Senate.

SPECIAL: HOUSE BANKING COMMITTEE ANNOUNCES HEARINGS ON LINCOLN SAVINGS AND LOAN ASSOCIATION

Four hearings on issues related to the supervision and eventual closing of Lincoln Savings and Loan Association in California have been scheduled by the House Banking, Finance and Urban Affairs Committee. The hearings are scheduled to be held on 10/17/89, 10/24/89, 10/31/89, and 11/7/89, beginning at 10:00 a.m. in Room 2128 of the Rayburn House Office Building in Washington, D.C. Rep. Henry B. Gonzalez (D-TX), the chairman of the committee, said the hearings will explore in detail the issues involved in the Lincoln Savings case including: 1) the financial condition of the institution at the time it was closed; 2) the performance by management of the institution; 3) any practices by management that contributed to the institution's failure; 4) the role of accounting firms, appraisal companies, and other consultants; and 5) the supervisory history of Lincoln Savings. Scheduled witnesses include FDIC Chairman L. William Seidman, Office of Thrift Supervision Director M. Danny Wall, and former Federal Home Loan Bank Board Chairman Edwin Gray. Representatives of accounting firms are also scheduled to testify at the 10/31/89 hearing. For further information about the hearings, contact the staff of the House Banking Committee at 202/225-4247.

SPECIAL: AICPA 1989 BANKING CONFERENCE TO BE HELD IN NOVEMBER

The Fourteenth National AICPA Conference on Banking has been scheduled for 11/9-10/89 at the Grand Hyatt Washington Hotel in Washington, D.C. The two-day conference will feature lectures and panel discussions by public accountants, bank executives, and regulators. The keynote address will be delivered by Michael Esposito, Executive Vice President and Chief Financial Officer of Chase Manhattan Bank. Featured speakers include Wayne Angell, Governor of the Federal Reserve

Board, and Rep. C. Thomas McMillen (D-MD), a member of the House Banking, Finance and Urban Affairs Committee. Other speakers and panelists include key representatives of the Financial Accounting Standards Board (FASB), the Securities and Exchange Commission, the banking regulatory agencies, as well as executives from the banking industry and CPAs with extensive experience in the banking field. Major topics of the conference include application and implementation of the new risk-based capital requirements; recent FASB statements; implementation issues for community banks; tax planning in a changing environment; accounting and implementation issues for postretirement benefits other than pensions; and an update on legislative developments. The recommended CPE credit is 16 hours. For further information contact the AICPA Meetings Department at 212/575-6451.

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